IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No. 16548 OF 1998

Date:29.08.2007

BETWEEN:

Visakhapatnam Port Employees Union
Rep. by its General Secretary D.K.
Sarma S/o. late D. Ramabhadrayya,
Dharmasakti Bhavan, Visakhapatnam.

…. PETITIONER

And

1. Visakhapatnam Port Trust, Visakhapatnam rep. by its Chairman, and another.

…. RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not paying incentive to the members of the petitioner-Union, who are working as Category-II employees performing the duties of category-I employees @ 75%, on par with the petitioners in W.P.No.6586 of 1998 as illegal and arbitrary.

It appears that the members of the petitioner-Union have been working in the Ore Handling Complex of the Mechanical Department in the Visakhapatnam Port Trust since more than ten years. They belong to Category-II employees performing the duties of Category-I. Ten persons, who were working in Category-II and performing Category-I duties had approached this Court by filing W.P.No.6586 of 1998 with a prayer to grant at least 75% incentive until the matter is finally decided. An incentive scheme was implemented to the Operational and Maintenance Staff of the O.H.C., w.e.f., 24.03.1986 with the sanction of the Government of India on an experimental basis and final scheme on the basis of the recommendations of the Andhra Pradesh Productivity Council was considered. The incentive scheme, which was in existence since 1986, had been revised w.e.f., 1.1.1997 by the Management vide Board Resolution No.100/97-98 dated 15.09.1997 after negotiations with the various unions representing the workmen.

When the scheme was originally introduced, there were

896 employees in Category-I and 409 employees in Category-II and the same is a Group incentive scheme. The incentive earned in receiving system and shipping system was pooled and distributed at the rate of 100% to the Category-I employees and at the rate of 50% to the Category-II employees. The purpose of this incentive scheme is to stimulate the workers for higher outputs, by rewarding greater productive efforts through suitable incentive payments, to achieve the targets in Mechanical Iron Ore Operations. Though at a point of time the Board has resolved to pay 75% incentive, that was also not materialized. Hence this writ petition.

A detailed counter affidavit has been filed on behalf of the respondent-Port Trust denying the allegations made by the petitioner-Union. At paragraph-11 of the counter it is stated that payment of incentive in the month of January 1998 was paid in terms of approved scheme. However, the One Man Committee constituted by the management is only to study as to the incentives submitted its report with regard to payment of incentive arrears for the period from January 1997, to August 1997 but not with regard to payment of incentive from January 1998 onwards. Apart from that the One Man Committee was also requested to study and report the Categories, which are entitled for payment of incentive under revised scheme. It is submitted that the One Man Committee has submitted its report but final decision has not yet taken. Therefore the writ petition is premature and liable to be dismissed.

There is no necessity to go into all the details. It is a fact that the One Man Committee has recommended certain measures for the purpose of payment of incentives to Category-II

employees. While admitting the writ petition, this Court directed the respondent to pay incentive allowance to the members of the petitioner-Union on par with Category-I employees, if they performed the duties of Category-I employees as found by the Committee.

The learned counsel for the petitioner submits that as per the interim directions, the respondents have implemented the orders of this Court and the members of the petitioner-Union were being paid on par with Category-I employees.

However, the learned counsel for the second respondent-rival union submitted that the very payment of incentive is subject to certain conditions, and those conditions have not been satisfied by the members of the petitioner-union. Therefore, they are not entitled for any incentives as claimed. Apart from this, the petitioner-Union is a minority union, and therefore, it would not have claimed the incentive.

I am not inclined to accept the contention of the learned counsel appearing for the second respondent. If the second respondent-rival union wants to espouse its cause, it can always do so. But it is the case of the second respondent that the incentive as claimed by the petitioner-union cannot be awarded by the authority. Such a plea raised by the second respondent is untenable and cannot be examined in a writ petition like this.

Be that as it may, in view of the interim orders, the petitioners are being paid the incentive allowance during the pendency of the writ petition and the One Man Committee report has not attained finality. Under those circumstances, I deem it appropriate to continue the interim order passed by this Court on 17.06.1998 till the finalisation of the One Man Committee report

and its approval.

With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

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(C.V. Ramulu, J.)

29th August, 2007
Js.